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## THE RESIDENCIA IN THE SPANISH COLONIES

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The residencia was a judicial examination held, or an account given of the official acts of an executive or judicial functionary during the term of his incumbency. It was a trial held at the expiration of the term of office of the person concerned, or, in case of malfeasance, at any time.<sup>1</sup> It was utilized by the Spaniards through three hundred years of their rule in every province and colony in America. It was the means by which Columbus was deprived of power and sent home in disgrace on his third voyage, it was reserved for the conquerors of Mexico and Peru, and for every other official of consequence who followed them. It was notable not only for its universality, but for its ineffectiveness, and for the persistence with which the institution was retained, when repeatedly shown and universally known to be ineffective.

The principle underlying the residencia was bequeathed to the Spaniards by the Romans, being similar to, and perhaps derived from, their law which gave the right of accusation to any Roman citizen against an office-holder. It combined the features of a general survey of the official career of the individual under investigation, an auditing of his financial operations, if he handled government funds, and a general trial. Its purpose was to ascertain

<sup>1</sup>Special emphasis should be placed upon the last clause of the above definition. The periodical residencia was not the sole means for the removal of officials in the Spanish colonies. The conclusion seems to have been reached by many historians that officials were permitted to conduct themselves carelessly, running their offices to suit their own personal convenience from the date of their appointment, in the assurance that their tenure was sure until the termination of a specified term, and that the periodical residencia was the only occasion on which they might be held to answer for their sins. Only the most scant attention has been given by modern writers to the residencia. Helps, in the most unsatisfying and uncertain of his chapters on Spanish colonial institutions, traces the residencia from the *Theodosian Code* and the *Fuero Juzgo*. (Helps, *The Spanish Conquest in America*, III, 148-158.) He is more than usually conjectural and theoretical in his treatment of the subject. See also the brief references in Bancroft, *History of Central America*, I, 250-251, Vander Linden, *Histoire*, 349, Moses, *Establishment of Spanish Rule in America*, 172, and Priestley, *José de Gálvez*, 96-99. The latter author contrasts the residencia, *pesquisa* and the visitation.

whether he had executed his duties faithfully, and it served to clear him if he were proved honest, giving him a clean certificate of recommendation. It proceeded on the principle that he was guilty until proved honest. If he were shown to be guilty of breach of trust, official misconduct or dishonesty, he was apprehended, degraded and punished, supposedly according to his deserts.<sup>2</sup>

It is the purpose of this paper to illustrate the general features of the residencia in the Spanish colonies by concrete cases drawn from the history of the Philippines. An exhaustive review of the subject, illustrating or discussing residencias in all the colonies of the Spanish empire, would be quite beside the point. It is assumed that conditions in the Philippines were sufficiently characteristic of all the colonies of the Spanish colonial empire to make this study of general illustrative value. The same laws were applied there and the same practices followed there as elsewhere. The laws of the Indies were equally in force there, and appeals from the Philippines were entertained in the Council of the Indies as from all other colonies.

It is important to note not only that an investigation was conducted at the close of the official term, but that one might be held at any time during the period of service. The term *pesquisa* was applied to that form of investigation which was carried on by a special investigator or *pesquisidor*, who was sent when serious charges were made against the conduct of an official, and before his term had expired. The distinguishing feature of the *pesquisa*, as prescribed by the laws, was secrecy, but as an actual fact few if any were carried out secretly. On receipt of charges

\*Bourne, in his *Historical Introduction* (Blair and Robertson, I, 51-52), characterizes the residencia as follows: "It was an institution peculiar in modern times to the Spanish colonial system. It was designed to provide a method by which officials could be held to strict accountability for all acts during their terms of office. . . . To allow a contest in the court involving the Governor's powers during his term of office would be subversive of his authority. He was then to be kept in bounds by realizing that a day of judgment was impending, when every one, even the poorest Indian, might in perfect security bring forward his accusation. In the Philippines the residencia for a Governor lasted six months and was conducted by his successor, and all the charges made were forwarded to Spain. . . . The Italian traveler Gemelli Careri, who visited Manila in 1696, characterizes the Governor's residencia as a 'dreadful trial,' the strain of which would sometimes 'break their hearts.'"

or other evidence of the criminal proceedings of an official, a *pesquisidor* would be dispatched by the Council of the Indies or by the local audiencia, according to the rank and position of the offender. Obviously the arrival of a magistrate in a colonial or provincial capital could not be kept a secret, and frequently advance information of his coming was sent ahead. After a preliminary investigation by the visiting magistrate, the offending official might be suspended from office, preparatory to his formal trial, or, if sufficient evidence were not forthcoming, the investigator would return whence he came to make a report, favorable or unfavorable, as the case might be. Usually, if nothing more than this were done, the matter was dropped, and the official under investigation was allowed to continue in office. If he were suspended from office, he would remain under arrest, or, as Helps suggests (III, 146), practically under impeachment. Regular residencia proceedings would then be instituted, and as a result the defendant might be cleared, or he might be fined only, or, if criminal offenses were proved, he might be removed from office and penalties imposed in accordance with the criminal code. Appeals might be made from the judge of residencia (either the *pesquisidor* or another judge not connected with the preliminary investigation, but usually the former) to the audiencia of the district or to the Council of the Indies. In fact, original judgment was always reviewed in the audiencia, unless the investigating judge were especially commissioned by a higher authority,—for instance, the Council of the Indies.

The faculty of determining whether or not cases merited investigation belonged to the *acuerdo* of the audiencia and governor (or viceroy in Mexico or Peru), while the designation of the judge was the function of the executive.<sup>3</sup> The judges sent on these missions of residencia were not at first authorized to render definitive sentences, but that power was conferred upon them by the

<sup>3</sup>*Recopilación de Leyes de Indias*, 5-5-21 (Book 5, Title 5, Law 21). The *acuerdo* was a meeting or conference between the governor, viceroy, or captain-general and the audiencia. The determination or decision of this meeting was also termed an *acuerdo*. It transpired that the *acuerdo* came to be of great importance and frequently the audiencia went so far as actually to legislate in these meetings, sometimes with the consent of the executive, sometimes without it and against his judgment.

law of 1576.<sup>4</sup> Appeals might be made to the audiencia in case the fine exceeded two hundred ducats. If it involved the death penalty, permanent deprivation of office, or a monetary consideration exceeding two thousand pesos, a case could, prior to 1799, be appealed to the Council of the Indies. After that time only the residencias of governors, viceroys, *oidores* and superintendents could be tried in the Council, and they were resolved there in first instance.<sup>5</sup>

A typical instance of the sort of investigation referred to above may be noted in the case of Antonio Pimentel, governor of the Mariana Islands, whose residencia was taken in the decade following 1711. There may be noted in this case, especially, the distinction between the formal residencia, conducted at the close of the regular term of office, and an investigation of charges brought during the incumbency of an official. This case illustrates both forms of investigation, for it originated in a charge of treason against Pimentel, who, it is said, had furnished food and water to the crews of two English vessels, enemies of Spain, and these same ships had afterwards captured the galleon *Nuestra Señora de la Encarnación*, en route from Manila to Acapulco. The conduct of the case was given to Magistrate Torralba, of the Manila audiencia. Notwithstanding his plea of ignorance that a state of war existed between Spain and England, Pimentel was sentenced to the forfeiture of the bonds which he had posted on assuming office, and, in addition, was deprived of his post as governor. This sentence was rendered July 24, 1714.<sup>6</sup> The tribunal sentenced Pimentel to prison, and ordered that his residencia be taken; accordingly, an examination was made of all his official acts in the office which he had held. Pimentel, therefore, not only had to stand investigation for the particular offense which had brought about his removal, but he was also subjected to residencia over his entire career as governor. It may be noted that the two forms of investigation were separate and distinct on this occasion.

Owing to the death of Governor Lizarraga, the imprisonment

<sup>4</sup>*Ibid.*, 7-1-14.

<sup>5</sup>*Ibid.*, 5-12-31.

<sup>6</sup>*Expedientes relativos á la residencia de Don Antonio Pimentel, gobernador de las Marianas, Archivo de Indias*, 68-4-17 and 18.

of Oidor Villa, and the state of anarchy surrounding the administration of Oidor Torralba as temporary governor, Pimentel was forced to languish in prison several years while he awaited the formal residencia. Luís de Tagle was appointed as his successor, and judge of residencia on June 25, 1717.<sup>7</sup> A letter of the audiencia, dated August 9, 1718, advised the governor that there were four hundred and twenty-seven unfinished cases on the docket of the tribunal, and chief among those which ought to be finished without delay was the review of the residencia of Pimental. It was added that there seemed to be no prospect that a boat could get to Guam before 1719. The record of the termination of this suit probably reposes somewhere in the archives of Spain, tied in an aged, yellow packet, bound by red tape.

Practically all of the colonial officials were subject to residencia. The most sensational and widely known were those of the viceroys and captains-general, but *oidores*, treasury officials *encomenderos*, *alcaldes mayores* and *corregidores*,<sup>8</sup> admirals, generals, captains and constructors of galleons were likewise examined in this way.<sup>9</sup> Clerks, notaries, secretaries, *alcaldes ordinarios*,<sup>10</sup> *regidores* and other officials of a minor category were investigated at the same time when a governor or viceroy was examined. The residencia of these dependents seems to have become more and more perfunctory as time passed and there was a tendency during the latter part of the eighteenth century to continue them in office, even without investigation. When, for example, Governors Basco

<sup>7</sup>This occasion was one on which the successor of a governor actually took his predecessor's residencia, owing, the commission said, to the distance and the irregularity of communication between Manila and Guam.

<sup>8</sup>*Recopilación*, 2-31-1. *Encomenderos* were persons holding lands and Indians, for a limited time, either as a reward of merit or as a business proposition, farming the lands or utilizing the mines on them, usually paying a stipulated revenue or rent to the government. See Montero Y Vidal, *Historia de Filipinas*, I, 42-43; Pardo de Tavera, *Philippine Census*, I, 330; *Recopilación*, 9-8, 9, 11; Helps, *Spanish Conquest*, I, 102 *et seq.* *Alcaldes mayores* and *corregidores* were provincial governors with executive and judicial powers.—Bancroft, *History of Central America*, I, 297; *History of Mexico*, III, 520, II, 329-330; Relation by Loarca, Blair and Robertson, I, 35-187.

<sup>9</sup>*Recopilación*, 5-15-17 to 18; 9-45-42.

<sup>10</sup>*Alcaldes ordinarios* were municipal judges and, usually, at the same time members of the municipal council (*cabildo* or *ayuntamiento*); *regidores* were members of the latter body without judicial powers.

y Vargas and Marquina gave up office this formality was omitted.<sup>11</sup> The practice of taking the residencia of the last group of officials was definitely abandoned on August 24, 1799, and a rigid inspection of their official acts by the audiencia was substituted.<sup>12</sup>

Officials were usually obliged to submit to residencia before leaving the colony and before their promotion to other posts.<sup>13</sup> In the Philippines, however, owing to the paucity of ships plying to New Spain and the length of time elapsing between the sailing dates, officials could post bonds and leave before the residencia was completed. This was permitted only to men of good character, whose services had been uniformly satisfactory, destined to some other post wherein their services were indispensable. The investigation was then conducted in the absence of the official concerned.<sup>14</sup>

It was decreed by the *cédula* of December 30, 1776, that an annual deduction should be made from the salaries of governors and viceroys until sufficient money had been taken out to cover the probable costs and liabilities of their residencia.<sup>15</sup> This was a special assessment, distinct from the *media anata* (which was a sort of an income tax), and the money deducted thereby was to be returned if nothing detrimental was proved in the residencia. The last year's salaries of *alcaldes mayores* and *corregidores* were withheld, pending investigation of their official conduct and a rendering of accounts of collections made by them.<sup>16</sup> If an official were cleared of all guilt, the money which had been withheld was refunded, and the costs of the residencia were defrayed from the royal treasury.<sup>17</sup> In case the official were found guilty of misconduct, he had to forfeit his deposits, back salary,

<sup>11</sup>Having been excused by the *cédulas* of July 7, 1789, and January 15, 1795; A. I., 105-2-5.

<sup>12</sup>*Recopilación*, 5-15, notes 4, 11.

<sup>13</sup>*Ibid.*, 3-2-6. There were two kinds of bonds, those posted at the beginning of the term of office, and special bonds of residencia, given at the time of that investigation. The last mentioned were not required if the office were not a responsible one or if the charges were not sufficiently serious.

<sup>14</sup>*Ibid.*, 5-15-3; this *cédula* was annulled by that of May 21, 1787; see note to Law 3, same title.

<sup>15</sup>King to Basco y Vargas, A. I., 107-5-20.

<sup>16</sup>*Recopilación*, 8-26-42.

<sup>17</sup>*Ibid.*, 5-15-42.

bonds, and frequently he had to pay a large fine in addition. The amount of the penalty, of course, depended on the extent of the guilt. It may be said that in the Philippines the royal treasury suffered no serious embarrassment through having to bear the costs of residencia.

The judges of residencia who served as such in addition to their regular duties received an additional compensation which varied according to the place where the residencia was held, its distance from the capital and other circumstances.<sup>13</sup> This was modified by a reform of the nineteenth century which awarded extra pay only in case the official were fined. This was intended, of course, to afford the examining judge a stimulating interest in the case. Still later the system of giving extra pay for the residencia was abolished.

Much contradictory legislation appears in the laws of the Indies in regulation of the method of taking residencias.<sup>19</sup> This, of course, is because reforms were promulgated from time to time. We must remember that these laws were made for a growing empire. A chronological review of the laws referred to will show that the residencia was at first more or less an experiment. Indeed, the fact is too often overlooked that all the colonial institutions were in the early periods passing through experimental stages, and that the seemingly contradictory laws were enunciated and repealed in turn, according to the success or failure of the measures which were put into effect.

In illustration of the above characteristic of the laws of the Indies, we may note the *cédula* of December 4, 1630, which ordered that the residencia of a governor should be taken by his successor. This law was seldom, if ever, observed. Owing to the distance from Spain and Mexico, the time consumed in voyages, the unhealthy climate and the dangerous military campaigns in which the governors were compelled to engage, death frequently

<sup>13</sup>*Ibid.*, note 2.

<sup>19</sup>Sinibaldo de Mas, the able Philippine critic of the nineteenth century, says in regard to the above characteristic of the *Recopilación* and its laws, "since the laws of the Indies are not a constitutional code, but a compilation made in 1754 (a footnote amends this statement with the correction that the *Recopilación* was first made in 1681) of royal orders, dispatched at various epochs and by distinct monarchs . . . there results . . . a confusion of jurisdiction." De Mas, Blair and Robertson, LII, 70.



intervened before their successors could arrive. This, of course, did not prevent the residencia from being taken. These conditions, the same as prevailed in all of Spain's colonies, caused the above law to be modified by the *cédula* of November 28, 1667, according to which judges for the residencias of viceroys and presidents (governors and captains-general) were to be delegated by the king. The magistrate named was usually the senior magistrate of the audiencia. After 1776, the regent almost invariably conducted these investigations. The important reform of August 24, 1799, ordered that judges of residencia for governors, viceroys, presidents, governors-intendant, *intendentes-corregidores* and presidents of the Council of the Indies should be appointed by the king.<sup>20</sup>

The first residencia to be conducted by the Philippines in accordance with the law of November 28, 1667, was that of Governor Salcedo in 1670. This governor had been removed by the commissioner of the Inquisition on June 30, 1668, and Francisco Coloma, the senior magistrate of the audiencia, was ordered to take his residencia.<sup>21</sup> Coloma's intervention in the matter was protested by the audiencia in a letter to the Council of the Indies, dated April 7, 1670, on the grounds that Coloma was also the *asesor*<sup>22</sup> and possible successor of the governor, and for that reason was legally incapacitated to take the latter's residencia.<sup>23</sup>

The audiencia at the same time suspended the proposed action of Coloma, pending the reply of the Council of the Indies. In addition to the protest of the audiencia, the *fiscal*, on May 20,

<sup>20</sup>*Cédula* of August 24, 1799, San Pedro, *Legislación Ultramarina*, III, 280-281.

<sup>21</sup>*Papeles relativos á la residencia del gobernador Salcedo, Inventario de Residencias*, A. I.; also A. I., 67-6-10.

<sup>22</sup>Since all legal advice was furnished the governor by his *asesor*, Coloma would be examining his own acts.

<sup>23</sup>The *fiscal* was the general prosecuting official; the *asesor* was the legal advisor of the governor, since the latter was usually a military official and knew nothing of legal matters. The *asesor* was held responsible for the legal and political decisions of the governor and the resultant consequences of the same. The *fiscal* gave legal advice to the audiencia, and in fact, to all other officials of the government, even including the governor at times. There were many bitter disagreements between the *fiscales* and the governor's *asesores*. In some provinces there were *tenientes asesores* or *tenientes-letrados* to advise the *alcaldes mayores* and *corregidores* in legal matters.

1670, sent a report of the case to the court.<sup>24</sup> The notes from Manila were effective in bringing about the desired results. Upon receipt of the communication, the Council of the Indies, on June 17, 1671, ordered the nullification of all former *cédulas* and cancelled Coloma's appointment to take the residencia in question, on the grounds that he had been the governor's *asesor*. Francisco de Montmayor, the *oidor* next in rank, was appointed to conduct the residencia of the governor.<sup>25</sup> Salcedo had already been dead three years, and two more transpired before his residencia was completed and the *autos* thereof reviewed by the Council.

During the first two centuries of Spanish rule in the Philippines the residencias of the governors were especially stringent, many of these officials suffering deprivation of office, imprisonment and exile. The families and dependents of some were reduced to the last extremes of poverty, while the victims themselves spent years in distant provinces, unable to defend themselves from their enemies. Many victims of residencia were purposely put aside in order that no appeal could be heard from them. One would occasionally find relief at last in a tardy pardon or in a modification of sentence, obtained through the influence of friends at home, when these latter could be reached, but more often death would intervene before the exercise of executive clemency or revision of sentence could be obtained.

The factors of petty spite, malice and personal ambition entered to an extensive degree in the rendering of testimony at a residencia. The governor, recently arrived in the colony, would be full of zeal and ardor to inaugurate a successful administration and make a good record for himself. The first duty that presented itself on his arrival was that of taking or supervising his predecessor's residencia. Frequently, before arriving at Manila, the new governor would be in full possession of a complete record of the misdeeds of his predecessor, and the residencia of the latter was a good as taken.<sup>26</sup> *Oidores*, merchants, *alcaldes*, treasury offi-

<sup>24</sup>*Recopilación*, 2-18-27

<sup>25</sup>*Cédula* of June 17, 1671, *A. I.*, 67-6-10.

<sup>26</sup>Officials, desirous of ingratiating themselves into the favor of the new executive, frequently journeyed by land and sea from Manila as far as the Straits of San Bernardino. The privilege of returning to Manila in company with the new governor was then gained, together with the oppor-

cials and churchmen, compelled to stand aside for a long period, to see a governor take his choice out of the best things and leave for them only the husks, were not slow in bringing charges at the official residencia.<sup>27</sup> A new governor, desirous of demonstrating his intention of starting an honest and vigorous administration, hearing nothing but evil of his predecessor, would naturally lend himself as an instrument of the desires of all malcontents. A *fiscal*, after spending six years in conflict with a governor, could be depended on to bring strenuous prosecution against him. A magistrate with enmity in his heart for the governor whose residencia he was to take, was no fit person to conduct an impartial investigation.

While, as a rule, the residencias of governors were arduous, due largely to the presence and hostility of the audiencia, that of Dr. Sande, the first governor to submit to this investigation in the Philippines, illustrates the evils of the residencia as conducted before the establishment of the audiencia. His successor, Governor Ronquillo de Peñalosa, conducted his residencia and sentenced him to pay a heavy fine, but he appealed the case to the Audiencia of Mexico, in which tribunal, meanwhile, he had been commissioned *oidor*. Ronquillo commented in no uncertain terms on the abject state into which the administration of justice had

tunity to poison his mind with tales and insinuations of the misdeeds of the incumbent and of the wealth which the latter had heaped up for himself through the exercise of dishonest methods.

<sup>27</sup>The residencia of a governor presented a splendid opportunity to that official's enemies for revenge. A governor was always in a fair way to make enemies, and the latter usually awaited the residencia of their former oppressor with great eagerness. In case a governor did make fair profit out of his office, and there were many opportunities for profit, commercial and otherwise, legitimate and illegitimate (according to Zúñiga, *Estadismo*, I, 242, the emoluments of the governor, aside from his salary, aggregated 20,000 pesos a year), his enemies gave him no rest at the time of his residencia. It is probable that most of the governors were dishonest, as the opportunities for corruption were numerous. The temptations offered by the position were too strong for the powers of resistance of any human being. Thousands of miles from Spain, in an age of slow communication, entrusted with the assignment of all sorts of lucrative offices, *encomiendas* and commercial privileges, with friends, relatives and special interests to serve, a governor was surrounded by countless officials who were eagerly awaiting their share of booty, and who were ready at a moment's notice to turn traitor if they could gain by such an act. It may be said of the Spanish colonial governor as was said of Verres of old, that in stealing one must steal threefold, once for himself, once for his judge and once to pay the penalty.

fallen when a man could be promoted to a magistracy in a tribunal which was trying his own case on appeal.<sup>28</sup> However, after the establishment of the audiencia and until the close of the nineteenth century, the residencia went to the other extreme, and was, as a rule, extremely rigorous.

The residencias of subsequent governors were conducted in due form, however, as the defects referred to by Ronquillo were eliminated by the establishment of the audiencia. Thereafter, the magistrates conducted these investigations under the supervision of the new governor. An account of the residencias of all the governors of the Philippines and a statement of the fines imposed upon them would not necessarily subserve the purpose of this paper, which is designed to show the aims and methods of the investigation rather than to give a detailed account of what transpired. We may note, however, a few of the more typical ones which illustrate some characteristic or phase of the residencia.

Santiago de Vera, governor from 1584 to 1590, whose administration had been one perpetual struggle with the ecclesiastical authorities, was obliged to submit to a very rigorous audiencia. His chief accuser was his enemy, Bishop Salazar. Nevertheless, Vera was cleared and promoted to Mexico. Gómez Pérez and Luís Pérez Dasmariñas, successors of Vera and governors during the period when the colony was without an audiencia (1589-1596), were obliged to give residencia to Governor Tello in 1596.<sup>29</sup> The younger Dasmariñas was sentenced to a fine of more than 50,000 pesos.

Neither the death of Governor Tello in 1603, in office, nor that of Pedro Bravo de Acuña, in 1606, soon after the latter's return from a successful expedition to the Moluccas, excused those governors from the investigation, even though they were not personally present to answer for their misdeeds. They had both accumulated considerable property during their administrations through commercial ventures and, as a result, particularly of their favoritism to the Chinese, all their property was confiscated by the audiencia. The residencia of Acuña was taken and heavy penal-

<sup>28</sup>Ronquillo to King, June 15, 1582, Blair and Robertson, IV, 310-311.

<sup>29</sup>Gómez Pérez Dasmariñas died in 1593 and was succeeded as governor by his nephew Luís Pérez Dasmariñas; the latter was obliged to give residencia for his own and his uncle's administration.

ties were imposed upon his estate by Rodrigo de Vivero, who had been sent by the Viceroy of New Spain in 1608 to assume temporary charge of the government and to conduct the residencias of officials in the colony.

In 1625 Gerónimo de Silva, temporary governor, was imprisoned by the audiencia because he had failed to pursue the Dutch after their failure to take Manila in 1610. The real difficulty lay in the fact that Silva had incurred the enmity of the senior magistrate, who ultimately conducted the residencia. Silva's arrival in the Islands had deprived that magistrate of the command of the military and naval forces of the Islands.

Governor Corcuera, after nine years of successful rule, during which he distinguished himself in several campaigns of conquest, and incidentally aroused the hostility and jealousy of the *oidores*, was arrested on charges made by the audiencia on the arrival of Governor Diego Fajardo in 1644. An *oidor*, who was the personal enemy of Corcuera, was designated to conduct the residencia. The ex-governor was fined 25,000 pesos and was imprisoned five years while the magistrate of the audiencia delayed the transmission of the papers which would have permitted a rehearing of the case. At last his defense was sent to the Council, the fine was remitted, he was given salary for the period of his exile, and the post of governor of the Canaries was conferred upon him. Although the audiencia was responsible for the injustice in this case, Fajardo, as president and governor, was held answerable in his residencia for his conduct toward his predecessor.

Governor Lara, a placid and mild executive who terminated a successful administration in 1663, was forced to submit to a severe residencia on giving up his office, and was fined 70,000 pesos. He appealed to the Council of the Indies and the sentence was remitted.<sup>30</sup> We have already noted the residencia of Governor Salcedo in 1670. Governor Juan de Vargas Hurtado, incumbent from 1678 to 1684, was compelled to give an uncommonly hard residencia which lasted over four years, the trials of which so weakened him that he died at sea in 1690, en route to New Spain. His chief crime had been his opposition to Archbishop Pardo, and his accusers in the residencia were ecclesiastics. Governor

<sup>30</sup>Zúñiga, *History* (English edition), I, 304; Montero y Vidal, *Historia*, I, 330-331.

Zabalburú, after eight years of distinguished service, was dismissed in 1709 for having received the French papal delegate, Tourón, in the Islands. The latter had been commissioned by the Pope, but had come without the authorization of the Council of the Indies. After his residencia had been taken, new charges were brought by the *fiscal*, and it was proved that he had been guilty of favoritism in the bestowal of a contract for the careening of the galleon. He was fined 11,000 pesos, which was the sum lost to the government through his act.<sup>31</sup>

Governor Bustamante was murdered in 1719. His successor, Governor Torre Campo, who came to the Islands in 1721, was ordered to investigate the cause of his death, but owing to the influence of the Jesuits, who seemed to have been responsible for the death of Bustamante, the matter was delayed. The government at Madrid was compelled to take the matter in hand, and, as a result, the governor finally made a noncommittal report, accusing nobody. The property of Bustamante was sequestered on his death, but the circumstances of his murder were so revolting that his case was not prosecuted, and the remaining portion of his property was sent to New Spain to his family.<sup>32</sup>

When Governor Váldez y Tamón came to give residencia on the termination of his administration in 1739, he was charged by the *fiscal* with having made away with 2,500,000 pesos belonging to the government. It was not proved. It is unbelievable that any governor of the Philippines ever had a chance to appropriate that much money. Governor Obando, whose administration from 1750 to 1754 was a perpetual struggle with the audiencia and the archbishop, was severely treated by the residencia, which was conducted by his enemies, the *oidores*. Governor Arandía, who was said to have amassed a fortune of 250,000 pesos during his administration from 1754 to 1759, leaving his wealth to pious purposes on his death, was fined 6,713 pesos in his residencia.<sup>33</sup> Governor Raón, who had failed to properly execute the royal orders relative to the expulsion of the Jesuits and the Chinese from the Philippines, was heavily fined, his property was seized, and

<sup>31</sup>Torralba to King, June 23, 1716, A. I., 68-4-18.

<sup>32</sup>*Inventario de residencias*, A. I.

<sup>33</sup>*Ibid.*

his family was reduced apparently to poverty.<sup>34</sup> From one account we learn, however, that Raón left to his family the sum of 500,000 pesos, all of which he obtained from the Chinese, from the merchants of Manila, and from the Jesuits for various favors.<sup>35</sup>

Governor Simón Anda y Salazar, one of the most successful governors the Islands have ever known, was made to suffer from the personal malice of the *oidores* when he gave his last residencia in 1776.<sup>36</sup> Among the offenses which were proved against him was the exercise of prejudice in the residencia of Oidor Villacorta, which was conducted under his supervision. The residencia had been rigorous, due no doubt to personal enmity existing between the *oidor* and the governor, extending over a period of many years. Governor Anda was fined 4,000 pesos as a price for his excessive zeal in the prosecution of the residencia of his predecessor, Raón, who had friends in the audiencia to defend and champion his memory. Anda was also shown to have absolved certain officials of *real hacienda* (finance), permitting them to leave the Islands without the consent of the audiencia and before their obligations to the government had been settled. These and other charges were proved against him, and they were said to have caused his premature death in 1776.

Governor José Basco y Vargas, another very efficient executive,<sup>37</sup> but one who had been opposed throughout his administration by the audiencia, was heavily fined in 1787 by the *oidor* designated to conduct the investigation. The decision of the judge of residencia was reversed by the Council of the Indies, and Vargas' exceptional merits were recognized to the extent of his being appointed to the governorship of Cartagena, with the rank of rear-admiral. In taking the residencia of Vargas the audiencia

<sup>34</sup>*Ibid.* Also Montero y Vidal, *Historia*, II, 254-255.

<sup>35</sup> Anda to Manuel de Roda (no date), *A. I.*, 106-4-22.

<sup>36</sup> Montero y Vidal, II, 257-258. Anda spent an earlier term of service in the Philippines. He first came to the islands in 1761 as *oidor*. He conducted the defense of Manila in 1763, acting as temporary governor, and was accordingly obliged to submit to residencia on giving up his office in 1764. His conduct was approved, and he received high honor and promotion at the court, being advanced to membership in the Council of Castile.

<sup>37</sup> Basco y Vargas occupies much the same position in the history of the Philippines as does Josef de Gálvez in that of New Spain. It was he who recommended and inaugurated in the Philippines the reforms of the intendency in 1785-7.

disagreed so completely that the tribunal was obliged to resort to the exceptional extreme of appointing a churchman as arbiter.<sup>38</sup> Fray Gerónimo Caraballo, the curate of Quiapo, was designated for that duty.

Aside from the above references to notable cases of governors' residencias in the Philippines, it would seem appropriate to make a detailed study of at least one governor's residencia, in order to note the method and actual practices connected with one of these investigations. We may select for this purpose the residencia of Felix Beringuer Marquina, which was the last to be conducted under the old laws, and accordingly the last of the severe residencias.<sup>39</sup>

As governor and superintendent of *real hacienda*, Marquina had assumed such power as probably no other governor of the Philippines ever exercised. He was opposed at every turn by the audiencia, and probably no governor had so many of his measures vetoed or opposed by the home government as did Marquina. The *fiscal* and *oidores* brought many charges against him during his administration, and these finally culminated in the royal order of February 19, 1792, before the expiration of his term, for the taking of his residencia. The regent, Agustín de Amparán, was put in possession of the special charges which had been made against the governor. According to these he had been careless in defending the Islands against the Moros; the latter had raided, insulted and robbed the settlements throughout the Islands with impunity, and no effort had been made to check their advance. The governor had transgressed in numerous instances upon the sphere of the audiencia and had substituted his own authority for that of the tribunal. He was said to have been guilty of immoral relations with certain Spanish women of the colony, having deliberately and maliciously separated an intendant from his wife

<sup>38</sup>*Inventario de residencias, op. cit.*

<sup>39</sup>This residencia was held in accordance with the laws which had prevailed throughout the seventeenth and eighteenth centuries. Characteristic of them, particularly, was the fact that the regent, or some other colonial magistrate, conducted the investigation and rendered sentence. The latter might be appealed to the Council of the Indies. This gave an opportunity for great injustice to be done to the governor by his enemies, and it did not give him an impartial hearing. The laws of 1799 still permitted a local magistrate to collect the evidence, but the decision was rendered by the Council of the Indies.



on one occasion by ordering the former to a post of duty where no woman could go. He had amassed a great fortune through trade and by diverting the proceeds of the royal revenue to his own private advantage; he had permitted merchants to conduct business without proper licenses; he had allowed foreign traders to remain and thrive in Manila under conditions forbidden by law.<sup>40</sup> These and many other accusations were brought against Governor Marquina in his residencia. They may be considered as typical of those usually brought against governors on such occasions.

Amparán was ordered by his commission to have Marquina retire to some spot outside Manila, where he could not interfere with the residencia, but whence he could be summoned at any time to give testimony in his own behalf.<sup>41</sup> The regent was instructed to ascertain of the treasury officials whether it would be necessary for Marquina to post more than the usual amount of bonds in view of the grave charges made against him.<sup>42</sup> In pursuance of these arrangements, Marquina was relieved of his office in September, 1792, and was sent to Laguna de Bay, about thirty miles from Manila. After five months' delay, the investigation was begun and it was concluded by July 22, 1793. However, Aguilar, the new governor, intervened and suspended the sentence on the grounds that Marquina had not been given sufficient opportunity to defend himself. Up to this time Marquina had not testified directly. Aguilar ordered that the ex-governor should be brought to Manila and that a lawyer should be appointed for his defense. This was done and the charges which had been made against him were duly answered. This evidence could not be incorporated into the official papers of residencia, however, for the latter had been finished and closed by the regent. Marquina's testimony was forwarded to Spain under separate cover.<sup>43</sup>

<sup>40</sup>Audiencia to King, June 28, 1791, *A. I.*, 108-4-18.

<sup>41</sup>Instructions to Amparán, February 19, 1792, *A. I.*, 105-2-10.

<sup>42</sup>It seems that the law, already cited, which had required an annual deduction of one-fifth of the governor's salary to cover residencia, had been abrogated by the royal order of February 13, 1782; hence there was some apprehension lest Marquina had not deposited sufficient money.

<sup>43</sup>The just and honorable conduct of Marquina's successor on this occasion may be contrasted with that of his predecessors, whose unfairness, bigotry and stupidity had caused governors Corcuera, Silva and Torralba, victims

The *autos* of Marquina's residencia, as formulated by the regent of the audiencia, arrived before the Council of the Indies in due time, together with Marquina's defense, which had been sent separately. The glaring injustice of the investigation as conducted by Amparán and of the official evidence transmitted was evident at once to the *fiscal* of the Council. He refused to receive any testimony that was not incorporated into the official papers of the case. Marquina was allowed a retrial by the Council. This resulted in a further delay of three years, during all of which, except for the time he spent in Manila giving testimony in his second residencia, which was taken under the supervision of Governor Aguilar, Marquina remained in the province. Shortly after his second trial Marquina was transferred to Mexico, but he was obliged to deposit an additional 50,000 pesos before his departure from Manila.

In the ultimate judgment, Marquina was pronounced guilty of many offenses in addition to those mentioned in the charges outlined in a former paragraph. He had shown favoritism in the dispensation of official favors; he had authorized the expenditure of public money for private purposes; he had neglected defense and agriculture; he had been careless in the supervision of the various departments of *real hacienda* and particularly of tobacco. He had infringed on the jurisdiction of the royal audiencia. He had indulged in private trade and had granted special favors to foreign merchants.<sup>44</sup> The regent fined him 40,000 pesos outright and condemned him to pay into the royal treasury an additional sum of 16,000 pesos to cover certain illegitimate profits which he had made through granting unlawful trading concessions to an Armenian merchant. This sentence was not executed immediately, as it had to be confirmed by the Council of the Indies. On

of residencia, to be seized, imprisoned and exiled without opportunities for defense, while their investigations were being conducted. This case serves well to illustrate the fact that by the close of the eighteenth century the residencia had grown more humane.

<sup>44</sup>He was charged with having entered into a conspiracy with an Armenian merchant to secure trade which should have gone to Spanish merchants. In this particular venture he had made profits of 16,000 pesos and in doing so not only had he violated the laws of the Indies which forbade governors to trade (*Recopilación*, 2-16-54, 62), but he had connived at the infraction of another law which forbade foreigners to trade (*Ibid.*, 6-15-91).

review of the findings and recommendations of the regent, the Council declared that since the proceedings at the trial of Marquina had been irregular and the governor had been greatly inconvenienced already by the slow process of the courts, the fine imposed by the judge of residencia in Manila should be reduced to 2,000 pesos. Marquina, writing from Mexico, asked to have the fine remitted, but the Council denied his petition, declaring that he had been treated with great consideration and mercy already and that nothing more could be done in his behalf, especially since he had not been adjudged innocent of the charges made against him.<sup>45</sup>

Marquina's trial illustrates all of the characteristics, delays, terrors and ramifications of a typical governor's residencia in the seventeenth and eighteenth centuries. Continual complaints against him caused Marquina's residencia to be taken before the expiration of his official term. The regent of the audiencia was commissioned by the court to conduct the investigation (because Marquina's successor had not arrived). That magistrate was prejudiced on account of his having witnessed the governor's continual malfeasance in office. He was unable to conduct an impartial investigation, nor would the audiencia, likewise prejudiced, intervene in behalf of the ex-governor. The wrongs done to Marquina in his trial were so patent that the Council of the Indies ordered a new hearing. A severe sentence was finally passed by the judge in Manila, but it was modified by the Council of the Indies through considerations of mercy. The residencia occupied ten years, and during the greater part of that time the ex-governor remained in exile, a victim of his own misdeeds, the faulty residencia system and the hostility of the audiencia. The customary severity of the residencia was only mitigated in this case by the presence of an impartial governor, who, unlike most governors, sought to secure a fair trial for his predecessor. To accomplish this, he was obliged to work in opposition to, rather than in cooperation with, the audiencia.

The above-described method of conducting the residencia of

<sup>45</sup>It is an interesting commentary on the Spanish governmental point of view that, notwithstanding Marquina's misgovernment in the Philippines, he was promoted to the post of Viceroy of New Spain, which place he held from 1800 to 1803.

governors, presidents, viceroys and superintendents was modified, as already mentioned, by the reform of August 24, 1799. The new law provided that the court, instead of the new governor, should appoint the examining judge. The latter was no longer endowed with authority to pass sentence, but was ordered to remit the *autos* of the case to the Council of the Indies for final determination and sentence.<sup>46</sup> Again, on March 16, 1797, the royal order of December 30, 1777, was re-enacted and the practice was revived of deducting annually one-fifth of the salaries of officials whose incomes were 8,000 pesos a year or more.<sup>47</sup> This law was again promulgated on January 18, 1848. Its purpose was to secure the retention of a sufficient sum of money to guarantee all losses incident to the residencia. It apparently continued in force until July 7, 1860, when governors and captains-general were declared exempt from these discounts.<sup>48</sup>

It has already been stated that the residencias of provincial judges and governors, *alcaldes ordinarios* and treasury officials were taken by judges appointed by the president of the audiencia (the governor), with appeal to the tribunal. These cases, under certain circumstances, might be carried on second appeal to the Council of the Indies. There were some variations in the laws regulating these matters, but a general principle seemed to have been followed of granting jurisdiction over the residencia of an official to the authority which appointed him.<sup>49</sup> So we have the Council of the Indies exercising final jurisdiction over the residencias of viceroys and captains-general, and the governor and audiencia over those of the minor officials of the colony. Neither

<sup>46</sup>*Recopilación*, 5-15, notes 4 and 5.

<sup>47</sup>Reales resoluciones del consejo de 4 de Marzo de 1794, A. I., 106-4-18; Royal Order of January 18, 1848, San Pedro, *Legislación Ultramarina*, I, 290.

<sup>48</sup>These discounts were "considered subversive of their authority (that of the governors); . . . the best guarantee of their acts is not a discount of some thousands of pesos, which is always penurious when compared with the honor and dignity of the persons called, on account of their elevated character and distinguished services, to hold these posts; and if, in former times, this practice had some foundation in the tardiness of communication between the Peninsula and these provinces, it does not exist today in view of the frequency of communication which enables said authorities to consult with the government of her Majesty in all the steps which are considered necessary in the territory of their command."—Royal Order of July 7, 1860, San Pedro, *Legislación Ultramarina*, I, 287.

<sup>49</sup>*Recopilación*, 5-15-4.

the governor nor the audiencia was to have complete authority in the matter, but each should participate, the audiencia assisting in the determination of whether the case merited investigation, and the governor making out the commission and appointing the judge if an investigation were decided on. The audiencia alone, was authorized to appoint judges of residencia for judicial officials only.<sup>50</sup> It was forbidden to interfere in the residencia, itself,<sup>51</sup> although this prohibition did not prevent the tribunal from reviewing the *autos* of residencia in second instance.

The length of time consumed in all the residencias except those of viceroys and governors was four months. For the latter the *cédula* of December 4, 1630 authorized a period of six months. These investigations were divided into two parts. During the first half, edicts or notices of residencia were posted throughout the district of the official concerned. These were printed in Spanish and in the common dialect, so that natives and others might read and know that the official was giving up his post and that charges might be brought against him, setting forth any misconduct, undue harshness, tyranny or dishonesty of which he had been guilty during his term of office. These notices invited them to register any charges which they might wish to make and gave them sixty days in which to do it. At the close of this period the judge of residencia opened an investigation in the town wherein the official under examination had resided (usually the capital of the colony or the chief town of the province). The actual trial of residencia might consume sixty days, or it might be prefatory in its character and occupy a much shorter period, the entire question of time depending on the amount of evidence presented against the retiring official. On the other hand, as we have seen, the residencias of some governors occupied ten years. If the judge were taking a residencia in the provinces he was frequently delayed in arriving at his post, owing to the press of other business or the uncertainty of transportation facilities. In that event, perhaps he could not open the judicial investigation until the allotted time had already passed.

In the trial, two distinct lines of investigation were usually

<sup>50</sup>*Ibid.*, 7-1-16; 5-15-21.

<sup>51</sup>*Ibid.*, 2-2-53 and 54.

pursued: (1) Charges which had been made against the official were investigated, and (2) the records of his office were examined. The discovery was frequently made by the latter proceeding that the official had made away with money belonging to the government. The enquiry might show that he had been careless in the execution of the duties of his office, remiss in his attention to *encomiendas*, particularly neglecting the Indians thereon, or that he had been too ignorant or incompetent properly to try, record, and transmit the *autos* of the cases which had come before him in first instance. These defects might not become apparent until they were revealed in this examination.

The judge of residencia would seem to have been well occupied during the time he was conducting the investigation. He received and reviewed all charges made. In addition to auditing the records of his office, he had to pursue enquiries as to the truth of these charges. He examined witnesses both for and against the defendant and was supposed to give the official under investigation every opportunity to defend himself. He was relieved, however, of the trouble and responsibility of checking up the financial accounts of officials under residencia. This important matter was turned over to the treasury officials, who ascertained shortages, and held the bondsmen of the official under investigation responsible.<sup>52</sup> The judges of residencia and the *oidores* making investigations and reviewing cases of residencia were ordered to confine their examinations to "criminal and legal matters and charges which result against those under residencia."

After all the evidence had been taken and the case had been duly tried, the judge of residencia was authorized to render sentence. Sentences were executed by the examining judge if the penalty did not exceed a fine of twenty-five thousand *maravedís*.<sup>53</sup> Such cases were not appealable. If the fine were less than two hundred ducats and the defendant desired to appeal, he was obliged to pay the fine or deposit the amount. His case would then be reviewed by the audiencia, and in order to effect this, notice of appeal had to be submitted in sufficient time to permit

<sup>52</sup>*Ibid.*, 8-1-28; 5-15-35. Heavy penalties were imposed upon those who offered insecure financial guarantees (*Ibid.*, 5-15-33 to 36).

<sup>53</sup>About 55 pesos.

the record of the entire case to be committed to writing. If, on reviewing the case, the *audiencia* found that the defendant was guilty of the charges brought against him, the money taken as a fine or on deposit was restored. If the amount of the fine exceeded two hundred ducats, or if the defendant were convicted of serious crimes, the judge was authorized to take the proper and necessary steps for the detention of the prisoner and the seizure of his property, pending a new trial in a higher tribunal.<sup>54</sup> Cases involving more than one thousand pesos could be carried to the Council of the Indies.

A thoroughly typical case, illustrating all of the steps in the *residencia* of a provincial official, was that of Francisco Fernández Zéndera, *alcalde mayor* and military captain of the province of Ilocos.<sup>55</sup> It was investigated first by a judge appointed by the *acuerdo* of the *audiencia*; it was reviewed by the *audiencia*, and it was finally carried to the Council of the Indies. It was characteristic in another sense: namely, that twelve years transpired before the matter was settled.

After Zéndera had occupied his post three years, complaints against him were brought to the attention of the *fiscal*. The latter, in his capacity as prosecuting official and as protector of the Indians, made a motion before the *audiencia* in *acuerdo* that a judge of *residencia* be sent to conduct an investigation of Zéndera's official conduct. The following complaints against the latter had been sent to the governor and on the basis of these the *fiscal*, governor and *audiencia* decided to conduct the investigation. First, Zéndera had compelled the natives to work for him on his own estates, building houses, granaries, fences, bridges, tilling the soil and planting and harvesting crops,—a species of slavery. From two to three hundred men had worked for him continually, without pay or food. Second, the arbitrary methods of this *alcalde mayor* left the natives without money with which to buy their food or to pay their tribute. Third, not only were the men forced to labor, but the native women were obliged to

<sup>54</sup>*Ibid.*, ley 39; 2-16-46.

<sup>55</sup>Expediente de Don Frco. Fernández Zéndera, *alcalde mayor y capitán de guerra de la provincia de Ilocos*, . . . su *residencia pendiente de informe de la audiencia*, 1794, *A. I.*, 106-5-4 and 5. The papers relating to this trial easily aggregate 4000 pages.

sew, spin and embroider without pay and the product of their labor was confiscated by the *alcalde mayor*.

The audiencia and the governor, having taken note of these charges as prescribed by law, commissioned Angel Moguel, chief secretary of government, to conduct the residencia of the *alcalde*. Moguel was put in possession of the necessary documents and departed at once for Vigán, the chief city of the province. On November 7, 1782, he posted notices to the effect that Zéndera's residencia was to be taken, calling on the residents to make formal charges against him. Moguel suspended Zéndera from office and accepted 20,000 pesos from two of his friends as bonds to cover the residencia, this sum offsetting the valuation of the properties for which Zéndera was responsible. These were additional to other bonds which Zéndera had posted on his accession to office.

For some unassigned reason, probably because of the lateness of Moguel's arrival, only twenty-five days were allowed for the filing of complaints, but during this time eighty-eight charges were made, most of which were variations of those mentioned above but differing in their official character in that they formed a part of the residencia itself. Zéndera was said to have been uncompromising in his administration of justice; he had imposed excessive fines; he had imprisoned the natives without giving them opportunities for defense; he had refused to allow them to appeal their cases.<sup>56</sup> Not being a lawyer, he had lacked sufficient qualifications for the proper conduct of trials, and he had refused to employ a trained legal assistant (*teniente-asesor*). He had failed to supervise or enforce the instruction of Spanish and he had done nothing to assist in the education of the natives, as he was required by law to do. Zéndera was charged with having suppressed all commerce except his own, going so far as to arrest merchants of other provinces who had come to Ilocos to trade.

<sup>56</sup>It was said that he had shown favoritism in his dealings with some of the *barangay* chiefs, allowing them unbridled license in the collection of tribute and in the enforcement of compulsory labor, most of which they utilized for their own or for his benefit. One chief was said to have gone so far as forcibly to take carabaos from the natives when the latter were working them in the fields. Zéndera had, of course, extended favors to these *barangay* chiefs in exchange for reciprocal advantages. (The *alcaldes mayores* ruled the native population through these chiefs at this time. They also utilized the *gobernadorcillos*, native or *mestizo* governors of the small towns.)



This he had done in order to secure his own monopoly in commercial matters within the province. He had, moreover, suppressed the trade of the neighboring tribe, the Igorrotes, with the Ilocanos. He had failed to segregate the men from the women in the provincial prison. It was said that he had neglected to publish the governor's edicts (*bandos*) from Manila. He had shown partiality to Spanish priests in preference to the native clergy. He was charged with having taken rice as tribute at a low price, turned it over to the treasury officials at a high rate, thereby having made great profits for himself.

Zéndera was found guilty of almost every charge made against him. The sentence of *residencia* was pronounced by the judge commissioned for the purpose on August 13, 1782. The defendant was fined 8,000 pesos and sentenced to deprivation of office for a period of five years. The *audiencia*, in turn, reviewed the case and that tribunal, on May 20, 1783, ordered Moguel back to Vigán for a second time to complete the investigation. The judgment of *residencia* after this second investigation was the same as before, and the case was carried to the Council of the Indies on November 7, 1785. It seems that the *audiencia* had been slow in granting the appeal, for on February 19, 1788, a *cédula* ordered the *audiencia* to forward all *autos* in its possession bearing on the case. The final judgment of the Council of the Indies was rendered March 23, 1794. The fine of 8,000 pesos was reduced to 3,000 and the sentence to deprivation of office was remitted altogether.<sup>57</sup>

The *cédula* of August 24, 1799, already referred to, greatly altered the applicability of the *residencia* of provincial officials. Its greatest importance consisted of the fact that it authorized investigations only when charges were made, otherwise it was assumed that the conduct of officials had been satisfactory, and accordingly no *residencia* was held. Before officials were transferred to other posts they were obliged to show certificates of clearance from former positions. The *audiencia* was given final

<sup>57</sup>The original sentence probably denied to Zéndera the privilege of holding the office of *alcalde mayor* only, since he occupied the post of *regidor* of the city of Manila pending the appeal of his case to the Council of the Indies. It is evident, therefore, that the sentence which was pronounced upon Zéndera did not apply to all positions of honor and trust.

jurisdiction over the residencias of *corregidores*, *alcaldes mayores* and subdelegate intendants, with inhibition of appeal. At the same time the tribunal was denied jurisdiction in any instance over the residencias of viceroys, superintendents, captains-general, presidents, governors, treasury officials, *oidores* and intendants.<sup>58</sup> After the suppression of the Council of the Indies on March 24, 1834, the latter cases were finished in the Supreme Tribunal of Justice, and that tribunal continued to exercise this jurisdiction until the close of the nineteenth century.<sup>59</sup>

The *cédula* referred to above abolished the residencias of *tenientes-letrados* (*asesores*), *alcaldes ordinarios*, *regidores*, clerks, procurators, *sindics*, *alguaciles* and other minor officials. In place of the formal investigation and judgment after the term of office was completed, the *audiencia* was given greater control over their official acts, with the duty of seeing that justice was administered, jails inspected and kept clean, prisoners given a speedy trial and not molested with undue exactions. The tribunal was also empowered to see that the municipalities conducted their elections impartially, and that the municipal officials, including the police, executed their duties faithfully. In this, the formal investigation at the close of the terms of these minor officials was replaced by a more efficient supervision by the *audiencia*, which was calculated to act as a preventive of the ills which had formerly been avenged, too late, by the *residencia*. The constitutional reforms of the nineteenth century gave to the *audiencia* original jurisdiction over the trial of judges of first instance with appeal to the Supreme Tribunal of Justice. This regulation was abolished in 1815, but was restored in 1835, after which date this authority remained to the *audiencia*.

Although the reform of August 24, 1799, recognized the residencias of *alcaldes mayores*, *tenientes* and *corregidores*, merely transferring jurisdiction over these to the *audiencias*, it would seem that this investigation retained less of its former severity from this time onwards. In fact, some authorities infer that the

<sup>58</sup>*Cédula* of August 24, 1799, *Recopilación*, 5-15, notes 4 and 5; see also San Pedro, *Legislación Ultramarina*, I, 282.

<sup>59</sup>Escriche, *Diccionario*, I, 578; see also Royal Order of November 20, 1841, and of January 18, 1848, San Pedro, *Legislación Ultramarina*, I, 280 *et seq.*

residencia was abolished after 1799.<sup>60</sup> This was not the case, however, as the residencia was recognized by laws as late as 1870.<sup>61</sup>

The residencia was essentially a Spanish institution. Its principles were inherited from the Romans. It was adapted through three hundred years to the needs of a vast colonial empire. It cannot be said that it was a success. Its purpose was to deter government officials from abuses rather than to inculcate a sincere desire on their part to fulfill the duties of their offices conscientiously and justly. The necessity for the residencia would have been eliminated by a more careful selection of men for offices. The residencia was the culmination of a period of service in an office which had been purchased, usually, and which was not regarded as an opportunity for service but as a means of yielding the greatest possible profit to its holder. Aside from the obvious defects of such a system, the residencia came too late in the period of service, held as it was at the end of the term. It sought to punish offenders and correct evils rather than to prevent them. This was the most serious fault of the residencia.

<sup>60</sup>Alcubilla (*Diccionario*, XI, 477) and Escriche (*Diccionario*, II, 819) state that the *cédula* of August 24, 1799, abolished the residencia. The last mentioned authority states that the residencia had proved to be a grave infliction on the towns; the judges had mistreated witnesses and defendants on many occasions, and it was thought advisable to discontinue the practice of holding these investigations. On the other hand, Escriche quotes extracts from the laws of August 24, 1799, September 26, 1835, and November 20, 1841, wherein were provided regulations for the future continuance of the residencia.

<sup>61</sup>See *cédulas* of July 7, 1860, San Pedro, *Legislación Ultramarina*, III, 286; Royal Order of July 25, 1865, *Ibid.*, X, 99; Royal Order of October 25, 1870, *Colección Legislativa*, CV, 442-465.